THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.20402 OF 2004

Between:

K.Vignesh

…….Petitioner

Vs.

1. The Assistant Collector, Asifabad, Adilabad and another

…….Respondents.

Dt.21.09.2005

O R D E R:

This writ petition is filed for a direction to the respondents herein to supply the essential commodities to the petitioner's fair price shop of Kannepalli-II, Bheemini Mandal, Adilabad District as long as his authorization is subsisting i.e., it is neither suspended nor cancelled, by duly declaring the action of respondents in not supplying the essential commodities to his fair price shop and making alternative arrangements for distribution of commodities to the card holders through one Rajam as illegal, arbitrary and contrary to the well settled principles of law laid down by this Court.

It is the case of the petitioner that in the year 1992 he was duly selected and appointed as Fair Price shop dealer of Kannepalli-II, Bheemini Mandal, Adilabad District vide proceedings, dated 18.09.1992 and he was given authorization to run the fair price shop. Since the date of issuance of authorization as fair price shop dealer, he was distributing the essential commodities to the card holders attached to

his shop by following the conditions mentioned in the authorization as well as the instructions issued by the Civil Supplies authorities. On 03.04.2003 the petitioner submitted his authorization before the second respondent for renewal of his authorization to enable him to forward the same to the first respondent and a receipt was issued to that effect. As the matter stood thus, the Mandal Revenue Inspector inspected the shop of the petitioner and basing on the said inspection, he submitted a report before the second respondent, who in turn submitted the same before the Collector (CS), Adilabad alleging certain irregularities. There after, the Collector (CS) has issued a show cause notice dated 25.09.2004 to the petitioner under Section 6(A) of Essential Commodities Act, 1955 calling upon the petitioner to submit his explanation to the above said show cause notice. Pending further action on the notice, dated 25.09.2004, the second respondent stopped the supply of essential commodities to his fair price shop and made alternative arrangements to supply the same through one G.Rajam. In spite of several representations made by the petitioner before the respondent authorities, no action was taken by them.

The first respondent-Assistant Collector, Asifabad filed counter on behalf of the second respondent stating that as the authorization renewal application of the petitioner was not received in time, his application was rejected and authorization was cancelled. It is also stated that the application for renewal of authorization has to be submitted one month before the expiry of such authorization, but the petitioner submitted his application for renewal of his authorization on 03.04.2003, i.e., after the expiry date of validity period dated 31.03.2003. It is also stated that as per Clause 5(iii) of Andhra Pradesh State Public Distribution System Control Order 2001, the authorization may be renewed, if the application for renewal is received within one month after the expiry of the period of its validity subject to payment of fee prescribed therefor. However, if an application for renewal of authorization is not made within one month, the authorization shall cease to be valid and the entire security deposit made under sub clause (2) of clause (3) shall be forfeited. As the

petitioner has not availed the appellate remedy, the writ petition is liable to be dismissed.

The learned counsel for the petitioner submits that even though the petitioner has applied for renewal of authorization within one month before the expiry of the period of its validity, the same has not been considered by the respondent authorities and they are refusing to supply the essential commodities to the petitioner.

On the other hand, the learned Government Pleader for Revenue contends that the authorization of the petitioner was expired by 31.03.2003 and he has not applied for renewal of the authorization within one month before the expiry of the authorization and therefore, as per Clause 5(v) (iv) of the A.P.P.D.S. Control Order, the authorization is deemed to have been cancelled. Hence, there are no grounds in the writ petition.

As seen from the allegations in the counter it is stated that the petitioner's authorization was lapsed by 31.03.2003. The petitioner has not made any application for renewal of authorization within the time prescribed. As the application is not made within the time, the authorization deemed to have been cancelled. Therefore, a memo has been issued to the petitioner rejecting his case for the issuance of authorisation. As on today, no authorization is subsisting. Therefore, the question of giving a direction to the respondents to supply the essential commodities does not arise.

The learned counsel for the petitioner placed strong reliance on the proceedings of the District Collector bearing 6-A Case No.CS6/795/2004 of E.C.Act, 1955, dated 25.04.2005 wherein it was mentioned that the Sub-Collector, Asifabad is hereby directed to implement the orders of this Court in W.P.No.20402 of 2004, dated 05.11.2004 by restoring the F.P.Shop in favour of the petitioner. On 05.11.2004 this court granted interim direction to the respondents to release the

essential commodities to the petitioner, provided the petitioner is holding a valid authorization and the same is subsisting as on today.

Since no authorization is subsisting, the interim order of this court dated 05.112004 was not complied with by the Sub-Collector, Adilabad. Hence, the proceedings of the Collector cannot be relied upon.

Therefore, the writ petition is devoid of merit and it is accordingly dismissed. No costs.

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K.C.BHANU J.,

Dt.21.09.2005

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